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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 5634 of 2003 (O&M)

Date of decision: 21.8.2007

Gram Panchayat **...Appellant**

Versus

Punjab Wakf Board **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Deepak Nayyar, Advocate for the appellant.

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RAJESH BINDAL, J.

This is defendant's second appeal against the concurrent findings of fact by both the Courts below where a suit, for possession in respect of land measuring 15 kanals 5 marlas comprised in Khewat No.326, Khasra No.98, was decreed in favour of the respondent.

It was found by both the Courts below that prior to the partition of the country, part of the suit property was being used as Kabarastan. It was on the basis of the admission made by the appellant in the written statement. Accordingly, it attained the character of Wakf property. In support thereof judgment of Hon'ble Supreme Court in **Syed Mohd. Salie Labbai (Dead) by L.Rs. and others Vs. Mohd. Hainfa (dead) by L.Rs. and others AIR 1976 SC 1569** was also relied upon. The appellant failed to lead any oral evidence in spite of many opportunities granted. All what has been argued before this Court that Civil Court did not have the jurisdiction to entertain the suit. However, learned counsel for the petitioner has failed to point that any issue on this point was framed. Once no such issue was raised by the appellant, before the trial Court, it is too late in the day to raise such contention. Even otherwise the conduct of the appellant is evident from the fact that it did not lead any oral evidence to substantiate its claim.

Accordingly, I do not find any merit in the present appeal and

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the same is dismissed. Once the appeal itself is dismissed, I do not deem it appropriate to deal with the applications filed along with the appeal.

August 21, 2007 **(Rajesh Bindal)**
Pka **Judge**